

## **REMARKS**

In the final Office Action dated November 29, 2004, and reaffirmed in the Advisory Action of Feb 25, 2005, Claims 1-27 were rejected under 35 USC 103(a) as being unpatentable over Burge, U.S. Patent No. 6,014,638, in view of Rizzo, U.S. Patent No. 6,470,338. The applicants appealed this contention of obviousness. The Board of Appeals affirmed the rejection of Claims 1-27 on August 17, 2006, but provided new grounds of rejection. The applicants respectfully request to reopen prosecution based on the new grounds of rejection and hereby submit amended claims to put the application in condition for allowance.

### **1. The 35 USC 103 Rejection of Claims 1-27.**

In the final Office Action dated November 29, 2004, Claims 1-27 were rejected under 35 USC 103(a) as being unpatentable over Burge, U.S. Patent No. 6,014,638, in view of Rizzo, U.S. Patent No. 6,470,338. The Examiner contended that it would have been obvious to combine Burge with the system and method of Rizzo to match a suitable agent with a suitable buyer based on a created profile of the buyer. The Examiner contended that although Burge does not disclose automatically providing the identity of the suitable buyer to the agent without action from the agent, Rizzo does. The applicants respectfully traverse with this contention of obviousness.

The appellants' claimed invention, as amended, encompasses a system and method for finding a prospective buyer and providing the buyer to agents offering for sale products or services. The applicant's claimed invention provides the buyer with an interactive environment having information relating to the products or services offered by the agents. A profile of the buyer is created by inferring criteria desired by the buyer

based on the buyer's interaction with the interactive environment. The profile and the inferred criteria are compared with the criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created inferred profile of the buyer. **The identity of the suitable buyer that allows direct contact of the buyer by a suitable agent is provided without the agent having to request additional information.**

Burge teaches a system for customizing content and presentation of content for computer users. The system monitors and records a user's navigational choices to determine the user's needs and preferences for subsequent computer displays. Displays are customized in accordance with the user's needs and preferences. In a preferred embodiment of the present invention, an electronic marketing and shopping system accessible via the WWW is described. The shopping environment-including the opportunities presented to the shopper (content) and the appearance of the displays (presentation of content)-is customized according to the shopper's preferences. The functions of data collection and display customization are performed automatically by the electronic shopping system. To customize the environment, various attributes of Web pages or other displays provided by participating merchants are modified as they are accessed by shoppers using the system. (Abstract) **Burge merely displays certain items to the buyer based on the buyer's past preferences. No seller's criteria are used to match a buyer to an agent and provide the agent the buyer's identity. Burge does not provide the identity of a suitable buyer that would allow direct contact of the buyer by the suitable agent without the agent having to request additional information.** In Burge it is impossible for the agent to obtain the buyer's identity.

Rizzo teaches a computerized method for matching potential clients with professional services providers which meet the buyer's specified criteria. Specifically, Rizzo's system is set up for a client in need of attorney services. Hence, when the data entered by the client is sent out to one or more suitable

attorneys only part of the client's information is provided. **The client's identity that would allow direct contact (name, email and phone number) is not provided (Figure 1 a, step 270). In order to retrieve the client's identity the attorney must manually go to a website and request to retrieve it (Figure 1 a, step 290).**

Clearly, as indicated in the cited paragraph above, Rizzo does not automatically provide the client's identity to the attorney without the need for the attorney to perform manual actions. **This is intentional so as to provide a means for the attorney to preclude conflicts in representing clients.**

In order to deem the appellants' claimed invention unpatentable under 35 USC 103, a prima facie showing of obviousness must be made. To make a prima facie showing of obviousness, all of the claimed elements of an appellant's invention must be considered, especially when they are missing from the prior art. If a claimed element is not taught in the prior art and has advantages not appreciated by the prior art, then no prima facie case of obviousness exists. The Federal Circuit court has stated that it was error not to distinguish claims over a combination of prior art references where a material limitation in the claimed system and its purpose was not taught therein (*In Re Fine*, 837 F.2d 107, 5 USPQ2d 1596 (Fed. Cir. 1988)).

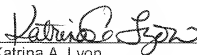
Burge does not teach providing the identity of a suitable buyer that would allow direct contact of the buyer by agents for the sale of at least one of the products and services to the suitable agent without the agent having to request additional information. Likewise, Rizzo does not teach automatically providing such identity of a buyer to a suitable agent without the agent having to request additional information. Thus, the combined teachings of these two references also lacks this claimed feature.

In view of the lack of a prima facie case of obviousness, the remaining rejected Claims 1-27 cannot be deemed to be unpatentable under 35 USC 103 over Burge in view of Rizzo. As such, it is respectfully requested that the rejection of Claims 1-27 be reversed based on the following claim language, as exemplified by Claim 1:

"A computer implemented method for finding a prospective buyer and providing the identity of the buyer to agents offering for sale at least one of products or services, the method comprising using a computer to perform the following process actions: providing the buyer with an interactive environment having information relating to the products or services offered by the agents; creating a profile of the buyer by inferring criteria desired by the buyer based on the buyer's interaction with the interactive environment; comparing the profile and the inferred criteria with criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created profile of the buyer; **and automatically providing the identity of the suitable buyer that would allow direct contact of the buyer by the suitable agent to the suitable agent without the suitable agent having to request additional information.**"

For the foregoing reasons, it is respectfully submitted that the Claims, 1-27, as amended, and new dependent claims 28-30 that have been added to better claim the invention, are allowable. Allowance of Claims 1-27, and new Claims 28-30, is courteously solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Katrina A. Lyon", is written over a horizontal line.

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